

17. (Withdrawn) The thermoelectric temperature controlling device of claim 10 further including at least one heat sink operably joined to at least one cylinder.

18. (Withdrawn) The thermoelectric temperature controlling device of claim 17 further including at least one fan positioned to direct air flow toward the at least one heat sink.

19. (Currently Amended) A thermoelectric temperature controlling device that is capable of holding one or more containers storing a substance, comprising;

a main body having at least two cylinders, said cylinders having a closed bottom portion and an open top portion wherein said cylinders can accept a container, said cylinders positioned within the main body so that the cylinders thermally communicate;

at least one heat sink operably joined to at least one cylinder wall;

at least one fan positioned to direct air flow toward at least one heat sink;

a means for adjusting the temperature of the at least two cylinders; and

a container positioning means located within the at least two cylinders to direct the position of one or more containers toward at least one heat sink when the one or more containers are positioned in the at least two cylinders.

20. (Original) The thermoelectric temperature controlling device of claim 19 further including at least one cover means that operably connects to the at least two cylinder open top portions.

REMARKS

Reconsideration of the application is respectfully requested. Applicant has attempted to address every objection and ground for rejection in the Office Action dated 10 June 2004, and believes that the claims as amended are in allowable form.

CLAIM REJECTIONS - 35 U.S.C. §102

Claims 10 and 14 were rejected under 35 U.S.C. 102(b) as being anticipated by Horwell U.S. Patent No. 6,397,624. Independent claim 10 has been amended and applicant respectfully submits that the claims, in view of the amendments and the following remarks, are in condition for allowance.

Horwell, U.S. Patent No. 6,397,624 B1, discloses a cooling apparatus for reducing the temperature of a wine bottle. The device disclosed relies on iced or chilled water that is agitated by a pump to cool the wine bottle and its contents. Therefore, the heat transfer occurs by the chilled water making contact with a wine bottle that is initially warmer in temperature than the chilled water surrounding the bottle.

Applicant's invention, on the other hand, as shown in the application, drawings and amended claim 10 uses a combination heat sink, container positioning means, and a fan to direct air flow to reduce or increase the temperature of a container and its contained substance. The device in Horwell does not teach this unique combination.

Therefore, claim 10 has been amended to distinguish over Horwell and applicant respectfully requests allowance of claim 10. Further, claim 14 depends from and contains all the limitations of claim 10, therefore applicant respectfully submits that claim 14 is in condition for allowance.

Claims 1-4, 7, 8, 10-14, and 17-20 were rejected under 35 U.S.C. 102(b) as being anticipated by Sugawara Japanese Patent No. 2001304739.

Independent claims 1, 10 and 19 have been amended and applicant respectfully submits that the claims, in view of the amendments and the following remarks, are in condition for allowance.

Sugawara, Japanese Patent No. 2001304739, discloses a wine storage box. The device, as shown in FIG. 1 uses a thermoelectric conversion element 8 positioned adjacent the holding vessel 6 and adjacent the bottom portion of the stored wine bottle. As shown in the drawings only one of the three bottles is positioned directly over the element 8. Element 8 draws heat from holding vessel 6. Sugawara does not teach a container positioning means attached to a wall of the holding vessel and does not disclose the element 8 attached to the vessel wall.

Applicant's invention provides for a heat sink to be operably connected to a wall of the bottle storage cylinder and not to the bottom portion of the storage cylinder. Further, applicant's invention provides for a container positioning means that positions the bottle or cylinder toward the heat sink to provide for a variety of benefits and cooling efficiencies as disclosed in applicant's patent application at paragraph 33:

To avoid the symmetric situation an asymmetrical situation must be created. The asymmetrical situation can be generated, when bottle 3 is forced to make contact with the cooling cylinder 34, preferably where the thermoelectric module 10 is closely located. When this happens, the wine in bottle 3 nearest to and touching the cooling cylinder 34 is colder than that of the wine at the opposite side of the bottle 3. As a result of the colder temperature, the wine in bottle 3 closest to the cold area moves toward the bottom of the bottle because it is heavier than the warmer wine due to its higher density. This downward movement of wine pushes and causes the wine at the opposite side of the bottle that has a lower density and is, thus lighter than the colder wine, to be displaced and move upward. The warm wine near the top of the bottle 3 is now replaced with the cold wine that has moved downward. This chain of events generates a continuous movement of

wine within bottle 3, which will contribute to making the wine temperature uniform preventing stratification in temperature of the wine from occurring.

Claims 1, 10, and 19 have been amended to distinguish over Sugawara and applicant respectfully requests allowance of claims 1, 10 and 19. Further, claims 2, 3, 4, 11-14 and 20 depend from and contain all the limitations of claims 1, 10 or 19, therefore applicant respectfully submits that claims 2, 3, 4, 11-14 and 20 are in condition for allowance. Claims 7, 8, 17 and 18 have been withdrawn.

CLAIM REJECTIONS - 35 U.S.C. §103

Claims 5 and 15 were rejected under 35 USC 103(a) as being unpatentable over Sugawara in view of Osterhoff et al. U.S. Patent No. 5,720,171. Claims 5 and 15 have been withdrawn.

Claims 6 and 16 were rejected under 35 USC 103(a) as being unpatentable over Sugawara in view of Solo U.S. Patent No. 2,838,916 or Cretzmeyer (U.S. Pat. No. 4,580,405).

As discussed above, independent claims 1 and 10 have been amended to distinguish over the primary reference Sugawara. Further, claim 6 depends from and contain all the limitations of claim 1 and claim 16 depends from and contains all the limitations of claim 10, therefore applicant respectfully submits that claims 6 and 16 are in condition for allowance.

Claim 9 was rejected under 35 USC 103(a) as being unpatentable over Sugawara in view of Kieler (U.S. Patent No. 4,704,875) or Bloch et al. (U.S. Patent No. 6,494,316).

As discussed above, independent claim 1 has been amended to distinguish over the primary reference Sugawara. Further, claim 9 depends from and contain all the limitations of claim 1, therefore applicant respectfully submits that claim 1 is in condition for allowance.

CONCLUSION

The art made of record by the Examiner but not relied upon has been reviewed by applicant and is believed not to anticipate or render obvious any claims in the application.

Applicant respectfully submits that the present application, in light of the amendments and the remarks, is in a condition for allowance, and such action is earnestly solicited. Should the Examiner determine that there are outstanding issues which may be readily resolved through a telephone interview, the Examiner is invited to contact applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,

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